

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



October 16, 2002

Agenda ID #1239

TO: PARTIES OF RECORD IN CASE 02-04-008

This is the draft decision of Administrative Law Judge (ALJ) Walker. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN for  
Carol Brown, Interim Chief  
Administrative Law Judge

CAB:sid

Attachment

Decision **DRAFT DECISION OF ALJ WALKER** (Mailed 10/16/2002)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

William Stokes and Brian Jones,

Complainants,

vs.

Pacific Gas and Electric Company,

Defendant.

Case 02-04-008  
(Filed April 10, 2002)

**OPINION DISMISSING COMPLAINT**

**1. Summary**

William Stokes and Brian Jones filed this complaint against Pacific Gas and Electric Company (PG&E), alleging that PG&E is installing poles and overhead electric lines that will impact their views and present traffic problems for their neighborhood in Grass Valley, California. The installation extends existing overhead lines to serve a newly constructed home about a quarter of a mile from the homes of complainants. PG&E offered to install the lines underground if complainants and their neighbors would bear the cost, but complainants could not agree on an allocation of costs. Because the complaint alleges no violation of law, and because the overhead lines are being installed pursuant to PG&E's tariffs, the complaint is dismissed.

**2. Procedural History**

The complaint was filed on April 10, 2002. PG&E denied that it had violated any order or rule of the Commission or other provision of law and asked that the complaint be dismissed because it fails to state a claim upon which relief can be granted. The assigned Administrative Law Judge (ALJ) directed the parties to meet and confer and to prepare a joint case management statement outlining the issues to be examined at hearing. A prehearing conference (PHC) was scheduled in Sacramento. At the request of complainants, the PHC was rescheduled for September 27, 2002, and was held telephonically.

**3. Discussion**

Complainants argue that the overhead lines will mar the view that they have of the Sierra Nevada mountain range and will reduce the value of their properties. They state that the poles may impede traffic, and the overhead lines have the potential of endangering children who play beneath them.

PG&E denies the allegations of the complaint. It states that the poles are being placed within a public utility easement some 15 feet from the paved surface on Gillum View Drive and in compliance with the Commission's General Order (GO) 95. It states that installation of some 1,155 feet of single-phase, 12-kilovolt overhead line also complies with GO 95.

PG&E states that it was asked to provide electric service to a recently constructed single family home in Grass Valley, and that it is doing so through a line extension of existing overhead lines. At the time the complaint was filed, PG&E offered to place the lines underground if complainants and their neighbors would agree to pay for the installation.

PG&E's Electric Tariff Rule 15 applies to distribution line extensions. Tariff Rule 15(A)(4) authorizes PG&E to provide service to the newly constructed

home by an overhead line extension. Because the requested line extension does not involve service to a residential development or residential subdivision of five or more dwelling units, Tariff Rule 15 does not require that PG&E underground the line at its expense.<sup>1</sup> (*See, Nugent-Rosenthal v. PG&E* (1992) Decision (D.) 01-09-023.)

In the PHC on September 27, 2002, complainants acknowledged that there has been no violation of PG&E's tariff or any other law. They also acknowledged that PG&E furnished them with application papers that would authorize an engineering study and, subsequently, an underground installation at complainants' expense. Complainants stated that they had been unable to reach agreement with their neighbors on allocation of the costs since they would be responsible for undetermined cost over-runs.

Pub. Util. Code § 1702 requires that a complaint set forth any act or thing done or omitted to be done that is claimed to be in violation of any provision of law or any order or rule of the Commission. It is clear that there is no basis for maintaining this complaint. Even if the complaint's allegations were assumed to be true and were viewed in the light most favorable to complainants, the complaint must be dismissed for failure to state a cause of action for which relief can be granted by this Commission.

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<sup>1</sup> Tariff Rule 15(A)(3)(a) requires the installation of underground distribution lines in specified areas, including all new Residential Subdivisions, Residential Developments, Commercial Developments, Industrial Developments and locations in proximity to and visible from scenic highways. The definition of "Residential Development" refers to "[f]ive (5) or more dwelling units in two (2) or more buildings located on a single parcel of land." The term "Residential Subdivision" refers to "[a]n areas of five (5) or more lots for residential dwelling units...."

The scope of this proceeding is set forth in the complaint and answer. We confirm ALJ Walker as the presiding officer. Although originally the complaint was designated for hearing, we now determine that this matter should be dismissed without hearing.

#### **4. Comments on Draft Decision**

The draft decision of the ALJ in this matter was mailed in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_.

#### **5. Assignment of Proceeding**

Henry Duque is the Assigned Commissioner and Glen Walker is the ALJ for this proceeding.

#### **Findings of Fact**

1. Complainants are located in Grass Valley, California.
2. A neighbor of complainants requested electric service for his newly constructed single family home.
3. Pursuant to its Tariff Rule 15(A)(4), PG&E is providing the new service by installing poles and overhead electric lines through a line extension from existing overhead electric lines.
4. Complainants seek to have the new service provided through underground lines, alleging that overhead lines affect their view and present potential traffic problems and other hazards.
5. Complainants were offered the option of paying for an underground installation, but were unable to agree with their neighbors on an allocation of costs.
6. Complainants acknowledge that PG&E's overhead installation violates no law or Commission rule or order.

**Conclusions of Law**

1. Complainants have not alleged that PG&E's actions violate the law or any rule or order of this Commission, as required by Pub. Util. Code § 1702.
2. The complaint should be dismissed, without hearing.

**O R D E R**

**IT IS ORDERED** that:

1. The complaint of William Stokes and Brian Jones against Pacific Gas and Electric Company is dismissed.
2. A hearing in this matter is not necessary.
3. Case 02-04-008 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.